

# SENATE BILL REPORT

## ESHB 2049

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As Reported by Senate Committee On:  
Labor, Commerce & Consumer Protection, March 30, 2009

**Title:** An act relating to personnel practices regarding exempt employment.

**Brief Description:** Concerning personnel practices regarding exempt employment.

**Sponsors:** House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Seaquist, Appleton, Hunt, Armstrong, Chandler, Chase and Miloscia).

**Brief History:** Passed House: 3/04/09, 95-0.

**Committee Activity:** Labor, Commerce & Consumer Protection: 3/26/09, 3/30/09 [DPA].

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Majority Report:** Do pass as amended.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist, Ranking Minority Member; Franklin, Honeyford, King and Kline.

**Staff:** Kathleen Buchli (786-7488)

**Background:** The Director of the Department of Personnel (Department) is appointed by the Governor, subject to confirmation by the Senate. The Director oversees the Department's administration of civil service rules and technical activities, and has the authority to adopt rules regarding such things as probationary periods, transfers, promotional preference, and layoffs. Rules adopted by the Director may be superseded by the provisions of a collective bargaining agreement, but will affect only those employees in that bargaining agreement.

The Washington Management Service (WMS) was established in 1993 as a separate personnel system for civil service managers within the executive branch of state government. Its purpose is to develop and maintain a professional managerial workforce, and to provide agencies increased flexibility for their management positions in the areas of hiring and setting compensation. The Director may adopt rules for this management system. Any employee whose position is exempted has the right to appeal, either individually or through that employee's authorized representative, to the Washington Personnel Resources Board.

**Summary of Bill (Recommended Amendments):** The Director must require each state agency to report annually on the number of classified Washington Management Service, and

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exempt employees in the agency and the change compared to the previous report; the number of bonuses and performance-based incentives awarded to agency staff as well as the base salaries of such employees; and the cost of each bonus or incentive awarded. A compilation of the data for each agency must be provided annually to the Legislature and the Governor and posted on the Department's website.

If a vacant position is being exempted, the exclusive bargaining unit representative may act in lieu of an employee for the purposes of an appeal.

**EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Amendments):** In addition to the number of bonuses and performance-based incentives awarded to agency staff, each state agency must also report on the base wages of employees. The data compilation that must be provided to the Governor must also be provided to the appropriate committees of the Legislature.

**Appropriation:** None.

**Fiscal Note:** Requested on March 24, 2009.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Engrossed Substitute House Bill:** PRO: There have been questions for a number of years about the WMS and this is a fresh approach. Originally, WMS was to apply to 300 to 400 employees and it grew to over 5,000 employees at one time. We have at least three layers of management in place. Because the architecture of work has changed over the years, relating to increased technology and computerization, we need to reexamine these layers of management and the structure in place for such management. This would be a legislative review of WMS and requires a series of reports. It is important to focus on the structure of management in the state. This is an opportunity to look at the business model for the state of Washington. We need to look at the top of the pyramid because that is where reform can start.

It is time to follow up on the JLARC study of 2002. The data collected by the bill will provide some sunshine on a system that is not consistent across agencies. We have ended up with managers who are managing themselves and we need to look at the system. The definition of manager is too broad and parts of that definition should be amended as well. The training component intended to be developed with WMS was not completed and the focus of the program is off what was originally intended. This requires greater transparency of compensation of managers. The growth of manager salaries has increased over the years and they are compensated at a greater rate than other employees of the agency. Getting this data will be very useful.

OTHER: WMS has become an urban myth. It has been under scrutiny since the inception of the program. WMS is a classified service program and is not exempt or at will. Employees in WMS have come from the rank and file. A cut in the program will result in a disruption to

the program. We have about 4,500 employees in the program today. The program was created to include nonmanagerial employees, it is not an expansion to include them. The Governor has directed management cuts in the past and this resulted in 700 WMS positions to be cut. Today we have reporting requirements as established by the Governor and the data from each agency would be added to this. We can post the information required on the bill along with the other data currently collected.

**Persons Testifying:** PRO: Representative Seaquist, prime sponsor; Sean Gallegos, Washington Public Employees Association, United Food, Commercial Workers International Union #365; Matt Zuvich, Washington Federation of State Employees; Kerry Graber, citizen.

OTHER: Eva Santos, Department of Personnel.